IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA EASTERN DIVISION No. 4:07-CV-54-BO

LAYVONNE MCAULEY,)	
	Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
FOOD LION, LLC,)	
	Defendant.)	

This matter is before the court on Defendant's Motion for Summary Judgment. A hearing was held on May 29, 2008, and the matter is ripe for ruling. For the reasons discussed below, Defendant's motion is GRANTED IN PART and DENIED IN PART and Plaintiff's remaining claims are DISMISSED without prejudice.

Plaintiff was arrested for larceny after being identified as having stolen eleven cases of baby formula from Defendant's Farmville store. The charges against Plaintiff were later dismissed. Plaintiff filed the instant action alleging violations of 42 U.S.C. § 1981, false imprisonment, malicious prosecution, and violations of 42 U.S.C. § 1983. Defendant moved for summary judgment on all of Plaintiff's claims. In her response filed with the court, Plaintiff only defended her malicious prosecution claim. Because Plaintiff has failed to set forth specific facts showing there is a genuine issue for trial as to her 42 U.S.C. § 1981 or 42 U.S.C. § 1983 claims, Defendant's Motion for Summary Judgment as to these claims is GRANTED. Fed. R. Civ. P. 56(e).

The court declines to exercise jurisdiction over the remaining pendent state court claims pursuant to 28 U.S.C. § 1367(c)(3). Plaintiff's claims for false imprisonment and malicious

¹Plaintiff then stated during oral argument that she could not support a claim under 42 U.S.C. § 1981 or 42 U.S.C. § 1983.

prosecution are therefore DISMISSED without prejudice.

Accordingly, Defendant's Motion for Summary Judgment is GRANTED IN PART and DENIED IN PART and Plaintiff's remaining claims are DISMISSED without prejudice.

SO ORDERED, this <u>3</u> day of June, 2008.

TERRENCE W. BOYLE

UNITED STATED DISTRICT JUDGE